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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 4923/2019 & CM APPL. 21895/2019**

AJAY KUMAR

.....Petitioner

Through: Mr. Gaurav Sarawat and Mr. U.
Srivastava, Advs.

Versus

GOVT. OF NCT DELHI AND ORS.Respondents

Through: Mr. Vikrant N Goyal and
Mr. Nitin, Advs. for GNCTD

CORAM:

HON'BLE MR. JUSTICE C.HARI SHANKAR

HON'BLE DR. JUSTICE SUDHIR KUMAR JAIN

JUDGMENT (ORAL)

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05.11.2024

C. HARI SHANKAR, J.

1. The impugned order passed by the learned Central Administrative Tribunal, under challenge in the present petition, reads thus:

“ORDER

Hon'ble Mr. S.N. Terdal, Member (J):

We have heard Mr. U.Srivastava, counsel for applicant and Mr. Kapil Agnihotri, counsel for respondents, perused the pleadings and all the documents produced by both the parties.

2. In this OA, the applicant has prayed for the following reliefs:

"(a) Directing the respondents to place the relevant records

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pertaining to the present OA before their Lordships for the proper adjudication in the matter in the interest of justice.

(b) Quash and setting aside the impugned order dt.10.04.18 (Annexure A/1) after declaring same is as illegal, unjust, arbitrary, malafide, unconstitutional, deliberate, biased, perverse against the principles of natural justice, violative of articles 14,16 and 21 of the Constitution of India and against the mandatory provisions of law and thereafter;

(c) Directing the respondents to consider the case of the applicant for absorption in services after granting the relaxation as per law as the applicant was duly engaged in the year 1997 and still continuing as temporary sweeper further has been requesting for absorption in services on permanent basis and getting assurances that his candidature would be recommended on availability of vacancy, with all other consequential benefits admissible to the applicant In accordance with the relevant rules and instructions on the subject.

(d) Allowing the OA of the applicant with cost etc.

(e) Any other fit and proper reliefs may also be granted to the applicant."

3. This is second round of litigation. The relevant facts of the case are that the applicant claimed to be sponsored by the Employment Exchange (EE) was engaged as Group 'D' Sweeper with intermittent breaks since 1997. He further claims that he was advised to take registration with the EE in 2003 and again in 2017 and when application for Multi Tasking Staff (MTS) was invited on 17.12.2017, the applicant filed a representation and simultaneously he filed OA no. 167/2018 before this Bench. Vide order dated 15.01.2018, this Tribunal disposed of the OA directing the respondents to dispose of his pending representation dated 06.01.2018 by a reasoned and speaking order within 90 days. The relevant portion of which is extracted below:

"4. In the circumstances, the OA is disposed of without going into the merits of the case, with a direction to the respondents to decide the Annexure-A/7 representation dated 06.01.2018 of the applicant, by passing a reasoned and speaking order within a period of 90 days from the date of receipt of a certified copy of this order in accordance with law. No costs."

The respondents in compliance of the direction of this Tribunal vide order dated 10.04.2018 disposed of his representation by a reasoned and speaking order rejected the representation. Challenging the said order dated 10.04.2018 the present OA has been filed. In support of his contention, the counsel for the applicant relied upon the following judgments:-

(1) **State of Karnataka and Others Vs. M.L.Kesari and**



Ors (2010)9 SCC 247)

(2) Yashwant Hari Katakhar Vs. Union of India and Others (1995(5) SLR 56)

(3) S.K.Chaudhary & Ors Vs. Govt. of NCT of Delhi and Anr. (W.P (C) 14160/2009- Delhi High Court)

(4) Sonia Gandhi & Ors. Vs. Govt. of NCT of Delhi & Ors (W.P (C) 6798/2002- Delhi High Court)

4. The respondents have filed a detailed counter affidavit also in which they have stated very clearly that the claim of the applicant is not supported by any document, he was never engaged or appointed as claimed by him, that there are no records to show that he was ever been appointed as claimed by him. In the impugned order also the competent authority has very clearly recorded that no record of the appointment of the applicant is available nor he has produced any such records which can establish the facts about the engagement or appointment of the applicant and, therefore, his request for age relaxation and education relaxation in the appointment to the post of MTS (Civil) in Delhi Police for the recruitment year 2017 can be granted. The relevant portions of the speaking order dated 10.04.2018 are extracted below:-

"Pursuant to the said directions and on examination of the averments in the OA as well as the representation dated 06.01.2018, a report was obtained from DCP South District, Delhi as well as SHO/ACP Kalkaji, DCP South Distt & SHO (Kalkaji) furnished information that Sh. Ajay Kumar, R/o B - 1270, Transit Camp, Govindpuri, Kalkaji, New Delhi was never engaged through Employment Exchange as a sweeper at Police Station Kalkaji during the year 1997.

No such record regarding the employment of Sweeper Ajay Kumar through Employment Exchange or even otherwise by direct recruitment in Delhi Police is available in the South Distt. Moreover, Sh. Ajay Kumar has also not provided/attached a copy of any such employment letter/letter of engagement by Delhi Police on his employment as Sweeper in the year 1997. The copies of letter of commendation cards/appreciation letters issued by ACP/HQ/SD cannot be construed as engagement letters or period of engagement of Sh. Ajay Kumar in Delhi Police.

So far as the claim of Sh. Ajay Kumar of working with intermittent breaks from 01.09.1998, it is a matter of record that services of Sh. Ajay Kumar was only utilized for cleanliness of the Police Station, Kalkaji whenever required and not more than once or twice a month. Sh. Ajay Kumar never drew any salary from Delhi Police, but was paid in cash by the staff residing & posted at Police Station, Kalkaji, from their personal accounts by way of contribution. Sh. Ajay Kumar was even never engaged permanently as a sweeper but was called on casual basis, as and



when there was a requirement for cleanliness of the premises and/or on special occasions of events in the Police Station, Kalkaji.

It may not be out of place to mention herein that there are two permanent sweepers i.e. namely MTS Mahender No. 197/S (since the past 18 years)& Smt. Poonam, No. 608/S (since 2007) posted at Police Station, Kalkaji.

The request of Sh. Ajay Kumar for relaxation in age and education qualification in Delhi Police for the recruitment of 2017 on the post of MST (Staff) i.e. Safai Karam Chari cannot be acceded to by the Department. The direct recruitment through open Advertisement in the year 2017 prescribes the Qualification for the post MTS Staff i.e. Safai Karamchari is "10th class or equivalent" and age limit is upto 27 years which is relaxable by 3 years for OBC and 5 years for SC/ST candidates, no relaxation in the age/educational qualification can be granted to the Applicant.

Decision:

In view of the facts cited above, his request for applying for the post of MTS (Civilian) in Delhi Police-2017 by granting relaxation in Educational Qualification 10th class or equal to it & age upto 27 years +3 years for OBC & 5 years for SC/SAT is not admissible to the Applicant. Hence, his representation dated 06.02.2018 addressed to DCP/South Distt., & later on transferred to this Distt., is hereby rejected."

5. In the facts and circumstances of the case as the impugned order is a well reasoned and speaking order and the cases referred to by the counsel for the applicant are not applicable to the present case, the said impugned order cannot be interfered with. Accordingly, the OA is dismissed. No order as to costs."

2. Clearly, the impugned order is completely bereft of any independent reasoning and hence cannot sustain the scrutiny of law.

3. Accordingly, the impugned order is quashed and set aside.

4. OA 1770/2018 is remitted to the learned Tribunal for fresh adjudication. As the OA is of 2018, let the parties appear before the learned Tribunal on 14 November 2024.



5. The learned Tribunal is requested to take up the matter on the said date and decide it as expeditiously as possible, preferably within a period of two months from today.
6. The petition stands allowed to the aforesaid extent, without commenting on the merits of the dispute.

C.HARI SHANKAR, J.

DR. SUDHIR KUMAR JAIN, J.

NOVEMBER 5, 2024/sk

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